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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,744	05/25/2005	Christophe Van Dongen	GLN-055US	3035
34617	7590	02/01/2007	EXAMINER	
HUGH R. KRESS; BROWNING BUSHMAN, P.C.			GOINS, DAVETTA WOODS	
5718 WESTHEIMER			ART UNIT	PAPER NUMBER
SUITE 1800			2612	
HOUSTON, TX 77057				

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/518,744	VAN DONGEN, CHRISTOPHE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Davetta W. Goins	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 1/10/05.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7, 8, 14-16, recite the limitation "the forward and backward threshold values" in lines 6 and 7. There is insufficient antecedent basis for this limitation in the claim.
3. Claims 7-9, 14-17, would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6, 10-13 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Birnbach et al. (US Pat. 6,819,247 B2) Fischer (US Pat. 6,673,027 B2).

In reference to claim 1, Birnbach discloses a) the claimed inclinometer delivering a signal representative of the angle of inclination of the segment with respect to a vertical line, which is met by accelerometer 10 as part of a user monitor 18 for recording readings in 3 axes over a

range of g forces (col. 4, lines 42-67), b) the claimed calculator receiving the signal and programmed to execute cyclically the operations of: obtaining a measurement of the angle of inclination, comparing this measurement to two stored threshold values of the angle, respectively corresponding to leaning positions in a first direction and a second opposite direction, which is met by the accelerometer 10 including a processor 20, capable of determining whether the acceleration detected by the device 10 has exceeded a threshold Q or less than a threshold R (col. 5, lines 12-43; col. 7, lines 40-67; col. 8, lines 1-33), and d) the claimed generating an indication of breaches of the threshold values, and indicating means, responding to the indication, to inform the person and/or the therapist, which is met by display 28 giving the wearer a visual indication as well as alarm 30 to give an audible alarm upon the accelerometer reaching preset threshold (col. 5, lines 66,67; col. 6, lines 1-11). Although Birnbach does not specifically disclose the claimed device is to detect the incorrect posture of a body, he does disclose the accelerometer is placed around the waist of the user to detect the change in velocity (acceleration) based on the compared threshold values that is set based on the risk level of the user and provide a necessary alarm (col. 10, lines 8-58). Fischer discloses posture alarm device attached to a user's body to determine when the user slumps beyond a threshold indicating the user's posture, the thresholds being determined by the micro processor and giving a feedback signal (acoustic or vibration), to the user (col. 7, lines 10-67; col. 8, lines 1-49). Since Birnbach discloses a device that's worn by a user that is capable of detecting the acceleration performed by the wearer and giving an indication to the user upon the detected acceleration reaching a threshold, it would have been obvious to one of ordinary skill in the art

at the time of the invention to incorporate the teaching of determining the posture, as disclosed by Fischer, based on the preset threshold values that can be altered in Birnbach's device.

In reference to claim 2, Birnbach discloses the claimed inclinometer is an accelerometer, which is met by accelerometer 10 (col. 4, lines 42-67).

In reference to claim 3, Birnbach discloses the claimed interface for storing, the two threshold values of the angle of inclination in the calculator, which is met by processor 20 is capable of comparing different acceleration ranges, an alert given upon the acceleration being over a first value as well as the acceleration being compared to a second range (col. 7, lines 40-67; col. 8, lines 1-34). Although Birnbach does not disclose the claimed push-buttons used for storing the threshold values, he does disclose of a web base interface used by the user to set various parameters. The device includes different thresholds based on the user. Also a push-button may be actuated by the user to turn off the alarm (col. 8, lines 61-67; col. 9, lines 1-35; col. 10, lines 1-58). Fischer discloses a posture alarm that includes a microprocessor with an input means that may be used to set a threshold (col. 8, lines 50-67). Since Birnbach discloses a device in which different thresholds can be selected based on the user as well as the use of a user activate button, it would have been obvious to one of ordinary skill in the art at the time of the invention to include buttons as part to allow the user to select a threshold, as Fischer's input means, with Birnbach, to allow the device to be adjustable for different users.

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In reference to claim 4, Birnbach discloses the claimed light alarm, which is met by display 28 or alarm 30 with a flashing light (col. 6, lines 1-11).

In reference to claims 5, 11, Birnbach discloses the claimed indicating means include an acoustic alarm, which is met by loud audible alarm (col. 6, lines 1-11).

In reference to claims 6, 12, 13, although Birnbach does not specifically disclose the claimed indicating means include a vibrating alarm, he does disclose both a visual and/or audible alarm that may be given to warn the user of a threshold that has been reached (col. 5, lines 66, 67; col. 6, lines 1-5). Fischer discloses a posture alarm given to a wearer in the form of a vibration feedback (col. 8, lines 26-49). Since Birnbach discloses a worn device that will give the user an alarm upon the device detected a threshold, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the teaching of a vibrating alarm, as disclosed by Fischer, with the system of Birnbach, as a means to inconspicuously alert the wearer that their posture needs to change.

In reference to claims 10, 18-20, although Birnbach does not specifically disclose the claimed characterized in that the positions are forward or backward leaning positions, he does disclose an accelerometer 10 that records readings in 3 axes over a range of g forces and to compare the readings to stored thresholds (col. 4, lines 42-65; col. 5, lines 1-51). Birnbach also discloses that the accelerometer 10 can be set to different parameters depending on the risk level of the user (col. 10, lines 8-45). Since Birnbach discloses an accelerometer that records movements in

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various directions and compared to threshold values to determine an alarm condition, it would have been obvious to one of ordinary skill in the art at the time of the invention to monitor only forward and/or backward motion that will indicate specific motion that should be monitored.

6. The prior art of record and not relied upon is considered pertinent to the applicant's disclosure as follows. Sclichter (US Pat. 6,146,312) and Petelenz et al. (US Pat. 6,433,690 B2), which disclose devices that monitor the change within an axes.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davetta W. Goins whose telephone number is 571-272-2957. The examiner can normally be reached on Mon-Fri with every other Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Davetta W. Goins  
Primary Examiner  
Art Unit 2612



D.W.G.  
January 29, 2007